



DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Part 122

[CBP Dec. 21-14]

Technical Amendment to List of User Fee Airports: Addition of Three Airports, Removal of Two Airports

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security (DHS).

ACTION: Final rule; technical amendment.

SUMMARY: This document amends U.S. Customs and Border Protection (CBP) regulations by revising the list of user fee airports. User fee airports are airports that have been approved by the Commissioner of CBP to receive, for a fee, the customs services of CBP officers for processing aircraft, passengers, and cargo entering the United States, but that do not qualify for designation as international or landing rights airports. Specifically, this technical amendment reflects the designation of user fee status for three additional airports: Witham Field Airport in Stuart, Florida; Plattsburgh International Airport in Plattsburgh, New York; and Fort Worth Meacham International Airport in Fort Worth, Texas. This document also amends CBP regulations by removing the designation of user fee status for two airports: Griffiss International Airport in Rome, New York, and Cobb County International Airport in Kennesaw, Georgia.

DATES: *Effective date:* [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Ryan Flanagan, Director, Alternative Funding Program, Office of Field Operations, U.S. Customs and Border Protection at Ryan.H.Flanagan@cbp.dhs.gov or 202-550-9566.

SUPPLEMENTARY INFORMATION:

Background

Title 19, part 122 of the Code of Federal Regulations (19 CFR part 122) sets forth regulations relating to the entry and clearance of aircraft engaged in international commerce and the transportation of persons and cargo by aircraft in international commerce.¹

Generally, a civil aircraft arriving from outside the United States must land at an airport designated as an international airport. Alternatively, the pilot of a civil aircraft may request permission to land at a specific airport and, if landing rights are granted, the civil aircraft may land at that landing rights airport.²

Section 236 of the Trade and Tariff Act of 1984 (Public Law 98-573, 98 Stat. 2948, 2994 (1984)), codified at 19 U.S.C. 58b, created an alternative option for civil aircraft that desire to land at an airport that is neither an international airport nor a landing rights airport. This alternative option allows the Commissioner of U.S. Customs and Border Protection (CBP) to designate an airport, upon request by the airport authority, as a user fee airport.³ Pursuant to 19 U.S.C. 58b, a requesting airport may be designated as a user fee airport only if the Commissioner of CBP determines that the volume or value of business at the airport is insufficient to justify the unreimbursed availability of customs services at the airport and the governor of the state in which the airport is located approves the designation. As the volume or value of business cleared through this type of airport is insufficient to justify the availability of customs services at no cost, customs services provided by CBP at the airport are not funded by appropriations from the general treasury of the United States. Instead, the

¹ For purposes of this technical rule, an “aircraft” is defined as any device used or designed for navigation or flight in air and does not include hovercraft. 19 CFR 122.1(a).

² A landing rights airport is “any airport, other than an international airport or user fee airport, at which flights from a foreign area are given permission by Customs to land.” 19 CFR 122.1(f).

³ Sections 403(1) and 411 of the Homeland Security Act of 2002 (Public Law 107-296, 116 stat. 2135, 2178-79 (2002)), codified at 6 U.S.C. 203(1) and 211, transferred certain functions, including the authority to designate user fee facilities, from the U.S. Customs Service of the Department of the Treasury to the newly established U.S. Department of Homeland Security. The Secretary of Homeland Security delegated the authority to designate user fee facilities to the Commissioner of CBP through Department of Homeland Security Delegation, Sec. II.A., No. 7010.3 (May 11, 2006).

user fee airport pays for the customs services provided by CBP. The user fee airport must pay the fees charged, which must be in an amount equal to the expenses incurred by the Commissioner of CBP in providing customs services at the user fee airport, including the salary and expenses of CBP employees to provide the customs services. *See* 19 U.S.C. 58b.

The Commissioner of CBP designates airports as user fee airports in accordance with 19 U.S.C. 58b and 19 CFR 122.15. The Commissioner designates user fee airports on a case-by-case basis. If the Commissioner decides that the conditions for designation as a user fee airport are satisfied, a Memorandum of Agreement (MOA) is executed between the Commissioner of CBP and the sponsor of the user fee airport. Pursuant to 19 CFR 122.15(c), the designation of an airport as a user fee airport must be withdrawn if either CBP or the airport authority gives 120 days written notice of termination to the other party or if any amounts due to be paid to CBP are not paid on a timely basis.

The list of designated user fee airports is set forth in 19 CFR 122.15(b). Periodically, CBP updates the list to include newly designated airports that were not previously on the list, to reflect any changes in the names of the designated user fee airports, and to remove airports that are no longer designated as user fee airports.

Recent Changes Requiring Updates to the List of User Fee Airports

This document updates the list of user fee airports in 19 CFR 122.15(b) by adding the following three airports: Witham Field Airport in Stuart, Florida; Plattsburgh International Airport in Plattsburgh, New York; and Fort Worth Meacham International Airport in Fort Worth, Texas. The Commissioner of CBP has signed MOAs with the respective airport authorities designating each of these three airports as a user fee airport.⁴

⁴ Then-Commissioner Kevin K. McAleenan signed MOAs designating Witham Field Airport on November 5, 2018, and Fort Worth Meacham International Airport on August 29, 2017. Then-Acting Commissioner Mark A. Morgan signed an MOA designating Plattsburgh International Airport on August 28, 2019.

Additionally, this document updates the list of user fee airports in 19 CFR 122.15(b) by removing two airports: Griffiss International Airport in Rome, New York, and Cobb County International Airport in Kennesaw, Georgia. After the airport authority of Griffiss International Airport requested to terminate its user fee status on August 5, 2020, the airport authority and CBP mutually agreed to terminate the user fee status of Griffiss International Airport effective on October 10, 2020. The airport authority of Cobb County International Airport requested to terminate its user fee status on July 1, 2020, and the airport authority and CBP mutually agreed to terminate the user fee status of Cobb County International Airport effective on October 10, 2020.

Inapplicability of Public Notice and Delayed Effective Date Requirements

Under the Administrative Procedure Act (5 U.S.C. 553(b)), an agency is exempted from the prior public notice and comment procedures if it finds, for good cause, that such procedures are impracticable, unnecessary, or contrary to the public interest. This final rule makes conforming changes by updating the list of user fee airports to add three airports that have already been designated by the Commissioner of CBP as user fee airports and by removing two airports for which the Commissioner has withdrawn the user fee airport designation, in accordance with 19 U.S.C. 58b. Because this conforming rule has no substantive impact, is technical in nature, and does not impose additional burdens on or take away any existing rights or privileges from the public, CBP finds for good cause that the prior public notice and comment procedures are impracticable, unnecessary, and contrary to the public interest. For the same reasons, pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required.

Regulatory Flexibility Act and Executive Order 12866

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply. This amendment does not meet the criteria for a “significant regulatory action” as specified in Executive Order 12866.

Paperwork Reduction Act

There is no new collection of information required in this document; therefore, the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) are inapplicable.

Signing Authority

This document is limited to a technical correction of CBP regulations. Accordingly, it is being signed under the authority of 19 CFR 0.1(b). Acting Commissioner Troy A. Miller, having reviewed and approved this document, is delegating the authority to electronically sign this document to Robert F. Altneu, who is the Director of the Regulations and Disclosure Law Division for CBP, for purposes of publication in the *Federal Register*.

List of Subjects in 19 CFR Part 122

Air carriers, Aircraft, Airports, Customs duties and inspection, Freight.

Amendments to Regulations

Part 122, of title 19 of the Code of Federal Regulations (19 CFR part 122) is amended as set forth below:

PART 122 – AIR COMMERCE REGULATIONS

1. The general authority citation for part 122 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1415, 1431, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a, 2071 note.

* * * * *

2. In § 122.15, amend the table in paragraph (b) as follows:
 - a. Add a second entry for “Fort Worth, Texas” immediately following the existing entry for “Fort Worth, Texas”;
 - b. Remove the entry for “Kennesaw, Georgia”;
 - c. Add an entry for “Plattsburgh, New York” in alphabetical order;
 - d. Remove the entry for “Rome, New York”; and
 - e. Add an entry for “Stuart, Florida” in alphabetical order.

The additions read as follows:

§ 122.15 User fee airports.

* * * * *

(b) * * *

<u>Location</u>	<u>Name</u>
* * * * *	
Fort Worth, Texas	Fort Worth Meacham International Airport
* * * * *	
Plattsburgh, New York	Plattsburgh International Airport
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Stuart, Florida	Witham Field Airport
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Robert F. Altneu,
Director, Regulations & Disclosure Law
Division,
Regulations & Rulings,
Office of Trade,
U.S. Customs and Border Protection.

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